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R 210000Z OCT 78

FM AMEMBASSY KABUL

TO RUEHC/SECSTATE WASHDC 660

INFO RUEHCO/AMEMBASSY ISLAMABAD 7859

RUEHBAE/AMEMBASSY NEW DELHI 6109

RUEHMR/AMEMBASSY TEHRAN 6735

BT

C O N F I D E N T I A L

LIMITED OFFICIAL USE SECTION 1 OF 2 KABUL 8517

EO. 11652: N/A

TAGS: PGOV, PINT, SCEN, SHUT, AF

SUBJECT: NEW AFGHAN DECREE LIBERALIZES MARRIAGE ARRANGEMENTS

1. THERE FOLLOWS THE TEXT OF DECREE NUMBER SEVEN OF THE REVOLUTIONARY COUNCIL OF THE DEMOCRATIC REPUBLIC OF AFGHANISTAN (DRA) REGARDING MARRIAGE, WHICH WAS ISSUED ON OCTOBER 17:

BEGINNING OF TEXT:

"DECREE NO. 7

"DOWRY (MAHAR) AND MARRIAGE EXPENSES

"THIS DECREE IS ISSUED FOR IMPLEMENTATION OF ARTICLE 12 OF THE BASIC LINES OF REVOLUTIONARY DUTIES OF THE DEMOCRATIC REPUBLIC OF AFGHANISTAN FOR ENSURING OF EQUAL RIGHTS OF WOMEN WITH MEN IN THE FIELD OF CIVIL LAW, FOR REMOVING THE UNJUST PATRIARCHIAL FEUDALISTIC RELATIONS BETWEEN HUSBAND AND WIFE, AND FOR CONSOLIDATION OF FURTHER SINCERE FAMILY TIES.

"ARTICLE ONE

"NO ONE SHALL ENGAGE OR GIVE IN MARRIAGE (NIKAH) A GIRL IN EXCHANGE FOR PAYMENT IN CASH OR COMMODITIES.

"NO ONE SHALL COMPEL THE BRIDEGROOM TO MAKE A PAYMENT IN CASH OR COMMODITIES IN THE NAME OF A MARRIAGE PORTION (TUYANA OR WALVAR) AT THE TIME OF MARRIAGE.

"ARTICLE TWO:

"NO ONE SHALL COMPEL THE BRIDEGROOM OR HIS GUARDIAN TO PREPARE CLOTHING OR PRESENTS FOR THE GIRL OR HER FAMILY IN THE NAME OF LOI, MAUROZI, SARATI, OR OTHER OCCASIONS.

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ARTICLE THREE: LIMITED OFFICIAL USE

THE GIRL OR HER GUARDIAN SHALL NOT TAKE AS MONEY, IN CASH OR COMMODITIES IN THE NAME OF DOWRY (MAHAR), MORE THAN THE TEN DARHAN SPECIFIED BY THE SHARIAT, WHICH DOES NOT (NOT) EXCEED 300 AFS., ON THE BASIS OF THE (CURRENT) BANK RATE OF SILVER. (NOTE: AFS. 300 EQUALS LESS THAN TEN DOLLARS AT THE EXCHANGE RATE OF OCTOBER 23, 1978.)

ARTICLE FOUR:

THE ENGAGEMENT AND MARRIAGE SHALL TAKE PLACE (ONLY) WITH THE FULL CONSENT OF THE PARTIES; THEREFORE:

"1. NO ONE SHALL FORCE A MARRIAGE;

"2. NO ONE SHALL PREVENT THE FREE MARRIAGE OF A WIDOW OR FORCE HER INTO MARRIAGE BECAUSE OF RELATIONSHIP OR PAROCHIAL TIES;

"3. NO ONE SHALL PREVENT LEGAL MARRIAGE OF ANOTHER PERSON ON THE PRETEXT OF ENGAGEMENT, FORCED ENGAGEMENT EXPENSES, OR BY USING FORCE.

ARTICLE FIVE:

THE ENGAGEMENT AND MARRIAGE OF WOMEN UNDER 16 YEARS OF AGE AND MEN UNDER 18 YEARS OF AGE ARE NOT PERMISSABLE.

ARTICLE SIX:

"1. THOSE VIOLATING THE PROVISIONS OF THIS DECREE SHALL BE LIABLE TO IMPRISONMENT FOR SIX MONTHS TO THREE YEARS.

"2. THE MONEY OR COMMODITIES WHICH HAVE BEEN ACCEPTED IN VIOLATION OF THE PROVISIONS OF THIS DECREE SHALL BE CONFISCATED.

ARTICLE SEVEN:

THIS DECREE SHALL BE PROMULGATED AFTER PUBLICATION IN THE OFFICIAL GAZETTE."

END OF TEXT

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2. COMMENT: THROUGH THE NEW DECREE, THE GOVERNMENT PLANS TO ELIMINATE FORCED MARRIAGES OF CHILDREN AND WIDOWS, AND TO REDUCE THE TRADITIONAL MARRIAGE EXPENSES WHICH OFTEN FORCE THE INVOLVED FAMILIES DEEP INTO DEBT. WHILE THE ELIMINATION OF THE DOWRY AND MARRIAGE PORTION ARE LIKELY TO BE POPULAR WITH POTENTIAL BRIDEGROOMS AND THEIR PARENTS, THESE CUSTOMS ARE DEEPLY ROOTED IN AFGHAN SOCIETY, AND HAVE BOTH HISTORICAL AND RELIGIOUS SANCTION BEHIND THEM. FOR THIS REASON ANY SERIOUS ATTEMPT BY THE GOVERNMENT TO ENFORCE THIS DECREE, PARTICULARLY IN THE MORE CONSERVATIVE RURAL AREAS, IS LIKELY TO MEET INITIALLY WITH CONSIDERABLE RESISTANCE. KING ZAKIR TRIED THE SAME PROHIBITIONS IN THE LATE 1950S. IF A FAMILY DESIRED A CERTAIN GIRL AS A BRIDE FOR THEIR SON, THEY HAD TO AGREE SECRETLY TO THE TRADITIONAL CHARGES. THE PAYING FAMILY WAS THEN UNDERSTANDABLY RELUCTANT TO JAUNDOICE THE NEWLY FORGED RELATIONSHIP WITH THE GIRL'S FAMILY BY BETRAYING THEM TO THE KING'S JUSTICE. THE LAW, NEGLECTED, WITHERED AWAY.

3. IT SHOULD ALSO BE NOTED THAT THE DOWRY (MAHAR) IS TRADITIONALLY AN AGREED-UPON SUM OF MONEY WHICH IS PLACED IN THE BRIDE'S NAME AT MARRIAGE, BUT REMAINS UNDER THE CONTROL OF THE HUSBAND UNLESS HE DIVORCES THE WIFE, AT WHICH TIME THE MONEY REVERTS TO THE WIFE. IN EFFECT, IT IS A KIND OF "ALIMONY IN ESCROW". THE REMOVAL OF THIS PROTECTION -- AND DISCOURAGEMENT FOR DIVORCE -- WITHOUT CONCURRENT CIVIL PROTECTIONS WILL, IN EFFECT, PLACE WOMEN IN A MUCH MORE PRECARIOUS ECONOMIC AND SOCIAL POSITION, HENCEFORTH VIS-A-VIS THEIR HUSBANDS.

4. SOME KAEUL WITS HAVE OBSERVED THAT THEY CAN NOW FINALLY AFFORD TO ACQUIRE THEIR FULL MUSLIM QUOTA OF FOUR WIVES. THEY ARE, OF COURSE, OPTIMISTICALLY OVERLOOKING THE OVERWHELMING MAINTENANCE EXPENSES OF BEING RESPONSIBLE FOR FOUR WOMEN WHO ARE, BY CUSTOM, ENTITLED TO -- AND WHO DEMAND -- EQUAL TREATMENT.

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